IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

WRIT PETITION No: 18814 of 1994

Between:

1. Mamilla Maraiah, S/o. Rama Raju,

R/o.17-1-46, Shankeswar Bazar,

Charminar Mandal, Hyderabad District.

2. Mamilla Narasimha, S/o. Late Rama Raju,

R/o.17-1-46, Shankeswar Bazar,

Charminar Mandal, Hyderabad District.

..... PETITIONERS

AND

1. The District Collector, Hyderabad District, Hyderabad.

2. The Revenue Divisional Officer & Sub-Divl. Magistrate,

Hyderabad District, Hyderabad.

3. The Mandal Revenue Officer, Charminar Mandal, Hyderabad District.

4. Sri T.Y.Bhaskar Rao, R.D.O. & Sub-Divl. Magistrate,

Hyderabad District, Hyderabad.

(Respondent No.4 dismissed for default vide Court order dated 20-6-2001)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or direction more particularly one in the nature of writ of Mandamus to the respondents declaring the action of the respondents 2 to 4 herein in high handedly causing demolition of the some portion of the house of the petitioners bearing House No.17-1-46 in Sy.No.62 Shankeswar Bazar, Charminar Mandal, Hyderabad District, during 14-10-94 to 16-10-94 as illegal, arbitrary, without jurisdiction and also malafide and further action of the respondents 2 to 4 in seeking to evict the petitioners from 10 guntas of land in Sy.No.62 wherein the petitioners house and Dhanwantari Ashram, Ayurvedic Chikitsalayam are situated as illegal, arbitrary, without jurisdiction and malafide and consequently direct the respondents not to dispossess the petitioners from the land in their possession bearing house No.17-1-46, Shankeswar Bazar, Charminar Mandal, Hyderabad District and further direct the respondents to consider the applications submitted for assigning the land.

Counsel for the Petitioner: MR.P.SRIDHAR REDDY

Counsel for the Respondents 1 to 3: GP FOR REVENUE

The Court made the following:

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ORDER:

The present writ petition has been filed with a prayer to issue Writ of *Mandamus* declaring the action of respondents 2 to 4 in high handedly causing demolition of some portion of the house of the petitioners, bearing No.17-01-46 in Sy.No.62, Shankeswar Bazar, Charminar Mandal, Hyderabad District, as illegal and arbitrary. The petitioners also pray for issuance of consequential directions to the respondents not to dispossess the petitioners from the land in their possession.

The petitioners claim to be the landless poor persons belonging to Koya Community, which is admittedly recognized by the Government as 'Scheduled Tribe'. It is claimed that the petitioners' father had been in occupation of Ac.1-10 guntas of vacant land situated in Shankeswar Bazar, then Saidabad village, Hyderabad. The revenue authorities collected Sivaijama and issued receipts. That several representations were made by the petitioners' father for regularizing his possession. The then Tahasildar, by proceedings, dated 13-01-1976, submitted a report to the District Collector, *inter alia*, stating that the request of the encroacher may "perhaps be considered to assign the land, since the petitioners' father was a Scheduled Tribe". The Government *vide* Memorandum No.3139-H2/75-I, dated 17-09-1975, directed the District Collector, Hyderabad, not to evict the petitioners' father from the land, if he is landless poor person and sivaijamadar pending disposal of the matter.

It appears, the father of the petitioners died on
18-07-1989 leaving the petitioners, four daughters and widow behind him. The sum and substance and the *gravman* of the complaint in the writ petition relates to

alleged high handed action on the part of the respondents herein in making efforts to dispossess the petitioners from the land in question, without following any procedure whatsoever. It is evident from the record that the case has been earlier recommended for regularization of the encroachment and it is not known whether the District Collector had taken any decision in the matter.

This Court *vide* its order, dated 19-10-1994, having directed *rule nisi* to be issued, granted *status quo* obtaining as on that date to be maintained.

In such view of the matter, it would be appropriate to direct the respondents not to dispossess the petitioners, provided they continue to be in possession, without putting them on proper notice and making appropriate enquiry. It is needless to observe that the claim of the petitioners, if any, pending for regularization of their encroachment, may also be considered in accordance with law by duly taking the fact of the petitioners being Tribals into consideration.

The writ petition is accordingly disposed of. No order as to costs.

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B.SUDERSHAN REDDY,J

DATED:09-12-2004

GJ

To

1. The District Collector, Hyderabad District, Hyderabad.

2. The Revenue Divisional Officer & Sub-Divl. Magistrate,

Hyderabad District, Hyderabad.

3. The Mandal Revenue Officer, Charminar Mandal, Hyderabad District.

4 . Two C.Cs. to the Government Pleader for Revenue, High Court of A.P., Hyderabad.

5. Two C.D. copies.